IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 31729 of 2006(B)

PETITIONERS:

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1. P.P.RAVEENDRAN, S/O. PHILIP, AGED 56, DRIVER, (RTD.), K.S.R.T.C. KOTTAYAM AND RESIDING AT "PAPPANAL", ERAVIMANGALAM P.O., MUTTUCHIRA, KOTTAYAM.

2. P.N.RAMACHANDRAN NAIR, S/O. NARAYANAN NAIR, AGED 52 YEARS, WORKING AS DRIVER, K.S.R.T.C. KOTTAYAM AND RESIDING AT POOVATHINKAL HOUSE, KIDANGOOR P.O., KOTTAYAM.

3. P.S.RAJAPPAN CHETTIAR, S/O. CHELLAPPAN CHETTIAR, AGED 55 YEARS, DRIVER, (RTD.), K.S.R.T.C. KOTTAYAM AND RESIDING AT PUTHUPARAMBU, THRIKKODITHANAM P.O., CHANGANACHERRY.

4. P.K.BALAN, S/O. G.KRISHNAN, AGED 57 YRS, DRIVER (RTD.), K.S.R.T.C. KOTTAYAM AND RESIDING AT "DEVI SADANAM", VELLUR P.O., PAMPADY, KOTTAYAM.

5. N.S.SOMAN, S/O. K.U.SUKUMARAN, AGED 53 YEARS, WORKING AS DRIVER, K.S.R.T.C. PALA AND RESIDING AT PALANILKUMKALAYIL, PERUMPAICADU P.O., KOTTAYAM.

6. P.N.SOMAN, S/O. NARAYANAN, AGED 54 YRS, WORKING AS DRIVER, K.S.R.T.C. MALA AND RESIDING AT PARASSERILMAKKIL HOUSE, PAKALOMATTOM P.O., KALIKAVU, KURAVILANGADU, KOTTAYAM.

7. JOSEPH T.D., S/O. DEVASSIA, AGED 53 YRS, WORKING AS DRIVER, K.S.R.T.C. PALAI AND RESIDING AT "THUNDIYIL", CHEMPALAVU, CHERPUMKAL, PALA, KOTTAYAM.

8. T.V.THOMAS, S/O. VARKEY, AGED 52 YEARS,
WORKING AS DRIVER GRADE-II, K.S.R.T.C. PALA AND
RESIDING AT "THELLIKUNNEL", KANJIRATHANAM P.O.,
KOTTAYAM.

9. V.N.RAVEENDRAN NAIR, S/O. NARAYANAN
NAIR, AGED 53 YEARS, WORKING AS DRIVER,
K.S.R.T.C. PONKUNNAM AND RESIDING AT
"RESHMI SADANAM", PONKUNNAM P.O., KOTTAYAM.

10. MICHEL MATHEW, S/O. M.MATHEW,
AGED 52 YEARS, WORKING AS DRIVER, K.S.R.T.C.
PONKUNNAM AND RESIDING AT "MUTHUKULATH" HOUSE,
POOVARANI P.O., VATTANTHANAM, KOTTAYAM.

11. JOSEPH MATHEW, S/O. MATHEW, AGED 54 YRS,
WORKING AS DRIVER, K.S.R.T.C. PALA AND
RESIDING AT "KARAKKATTU", PULIYANNOOR P.O.,
PALA.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS:
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1. THE KERALA STATE ROAD TRANSPORT CORPN.,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM,
REP. BY ITS MANAGING DIRECTOR.

2. THE DISTRICT TRANSPORT OFFICER,
KSRTC, KOTTAYAM.

3. THE ASST. TRANSPORT OFFICER,
K.S.R.T.C., PALA.

4. THE ASST. TRANSPORT OFFICER,
K.S.R.T.C., MALA.

5. THE ASST. TRANSPORT OFFICER,
K.S.R.T.C., PONKUNNAM.

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C) No.31729 OF 2006

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DATED THIS THE 12TH DECEMBER, 2006

J U D G M E N T

Petitioners 1, 3 and 4 are retired drivers of the 1st respondent-K.S.R.T.C. The other petitioners are presently working as drivers. All the petitioners were appointed on P.S.C. advice and have a total service of 5 to 9 years only. Therefore, they will not be eligible for regular pension as per Rule 10 of Part III of K.S.R. The Government under Rule 11, Part III K.S.R. issued Ext.P11 order introducing an ex-gratia pension scheme for providing relief to employees who are ineligible for statutory pension. A copy of that order was enclosed by the Government with a covering letter to the 1st respondent-K.S.R.T.C. also. The K.S.R.T.C. has adopted the K.S.R. and the contention of the petitioners is that the Government while exercising power under Rule 11 of Part III K.S.R. and issuing Ext.P11 order has taken a policy decision which is to be accepted by the K.S.R.T.C. also. The petitioners have a further contention that Ext.P11 order is to be treated as a direction under Section 34 of the R.T.C. Act and therefore even without a separate order from the Board of Directors, Ext.P11 is binding on the K.S.R.T.C. The petitioners point out that the K.S.R.T.C. is following Government Orders issued in respect of Part III

of K.S.R. even relating to leave rules including Appendix XII-A, Parts I and II also. Ext.P11 being a homologous order is therefore only to be followed by the K.S.R.T.C. The K.S.R.T.C. has passed Ext.P14 memorandum denying the benefits of Ext.P11 order to the petitioners. Ext.P14 is bad. Impugning Ext.P14 and seeking quashment of Ext.P14 and also a declaration that the 1st respondent-K.S.R.T.C. is liable to implement Ext.P11 order and grant ex-gratia pension to the petitioners, the present Writ Petition has been filed.

2. The K.S.R.T.C. has not filed any counter affidavit in this case. The Standing Counsel for the K.S.R.T.C. who was directed to seek instructions sought time today also.

3. Sri.N.Unnikrishnan, learned counsel for the petitioners has placed before me copy of order No.PA.23/4783/05 dated 24.11.2006 issued by the Chairman and Managing Director of the K.S.R.T.C. A reading of that order will show that a decision has been taken by the K.S.R.T.C. to extend the benefit of Ext.P11 scheme to the employees of the K.S.R.T.C. also. In view of order No.PA.23/4783/05 dated 24.11.2006 granting ex-gratia pension to the employees of the K.S.R.T.C. who have not completed qualifying service for statutory pension, the Writ Petition will stand allowed. Ext.P14 is quashed and

the K.S.R.T.C. is directed to pass fresh orders regarding the eligibility of the petitioners for ex-gratia pension in the light of order No.PA.23/4783/05 dated 24.11.2006. Fresh orders as directed above will be passed by the respondents at their earliest and at any rate within two months of receiving a copy of this judgment by the concerned respondent.

(PIUS C. KURIAKOSE, JUDGE)

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